

Appl. No. : 09/921,158
Filed : August 1, 2001

REMARKS

In response to the Office Action mailed October 20, 2003, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the above amendments and the following remarks.

Do Not Enter Supplemental Amendment Submitted On September 17, 2003

Applicants submitted a Supplemental Amendment by facsimile transmission on September 17, 2003. However, in a telephone conversation between the Examiner and Applicants' counsel, Glen L. Nuttall, on November 25, 2003, the Examiner indicated that the Supplemental Amendment was not entered into the case file, and was not considered by the Examiner in preparing the Office Action mailed on October 20, 2003. The present Amendment replaces the Supplemental Amendment and responds to the Office Action mailed October 20, 2003. Thus, please do not enter the Supplemental Amendment submitted by Applicants on September 17, 2003.

Withdrawn Claims Have Been Canceled

Claims 27-45 were previously withdrawn from consideration in light of Applicants' response to the Restriction Requirement dated December 30, 2002. By the present Amendment, these claims have been cancelled without prejudice. Claim 16 has also been cancelled without prejudice. Applicants reserve the right to pursue claims directed to the cancelled subject matter in future applications.

Allowable Claims Have Been Rewritten In Independent Form

The Examiner objected to Claims 13 and 20-26, but indicated that these claims recited patentable subject matter and would be allowed if rewritten into independent form. Accordingly, Claim 13 has been rewritten as new Claim 53; Claims 20-22 have been rewritten as new Claims 58-60, respectively; and Claims 23-26 have been rewritten as new Claims 62-65, respectively. Each of these claims is currently in condition for allowance.

Claims 10-12, 14-19, And 50-52 Are Patentable Over The Cited References

The Examiner rejected Claims 10-12, 14-19, and 50 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,486,195 to Myers. The Examiner rejected Claims 51 and 52 under 35 U.S.C. § 103(a) as unpatentable over Myers in view of U.S. Patent No. 6,325,789 to Janzen. Applicant has amended Claim 10, and this Claim defines over Myers. Further, the

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claims that depend from Claim 10 recite additional patentable subject matter that defines over the cited references.

Myers discloses a method and apparatus for arteriotomy closure. In Myers, a catheter 12 is advanced through an intravascular opening 4, and a balloon 44 is inflated within the artery to close and seal the opening 4. As shown in Figure 5c, a pre-formed semi-solid or solid plug 38 of sealant material 36 is slidably positioned on the external surface of the catheter 12. Through an undisclosed and non-enabled means, the plug is slid along the catheter 12 in order to seal the opening 4. Col. 5, ll. 55-65. With particular reference to Figure 5c, the plug 38 appears to be aligned with the intravascular opening 4 and does not engage the arterial wall 8. Further, as clearly shown in Figure 5c, the catheter 12 is much smaller in diameter than the intravascular opening 4 and the balloon 44 is required to seal the opening 4.

Myers does not teach or suggest all of the limitations of Claim 10. Accordingly, Myers does not anticipate Claim 10, and Applicants respectfully request that the Examiner withdraw the rejection thereof.

Claims 15, 17, 20, 23-26 and 50 depend from allowable Claim 10. And have been amended to use wording consistent with the amendments that have been made to Claim 10. These claims and the other claims that depend from Claim 10 also recite additional patentable subject matter. Accordingly, these claims are patentable over the cited references.

New Claims

New Claims 53 to 71 have been added as set forth above. As discussed above, several of these claims comprise rewritten dependent claims that the Examiner identified as allowable. Others of the new claims depend from these rewritten allowable claims and recite additional patentable subject matter. As such, all of the new claims are currently in condition for allowance.

- Appl. No. : 09/921,158
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CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections and objections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

4/19/04

By: _____



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